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DEC 18 2006

REMARKS

This Amendment and Response is submitted in reply to the Official Action mailed August 17, 2006, to request reconsideration of the application in view of the remarks set forth herein. Applicant submits that the Amendment and Response is fully responsive to the outstanding Official Action for at least the reasons set forth below.

At the onset, Claim 33 has been amended to delete the phrase "at least". No new matter has been added to the application by way of the aforementioned amendment.

In the outstanding Official Action, the Examiner rejects Claims 33-40 under 35 U.S.C. § 112, second paragraph. With respect to Claim 33 the Examiner argues that the phrase "at least one treatment equipment" is inconsistent with the disclosure as "at least one" implies that multiple treatment equipment may be associated with each device. Applicant submits that the aforementioned amendment obviates this rejection.

The Examiner also asserts that the term "judging portion" is new matter. Applicant respectfully disagrees with the Examiner and traverses with at least the following analysis. An applicant can be his own lexicographer. An Applicant can define in the claims what he regards as his invention in whatever language he chooses as long as any special term is clearly set forth in the specification.

Claim language is not analyzed in a vacuum, but must be interpreted in light of the specification, prior art and knowledge of a person of ordinary skill in the art.

The term judging portion was introduced into the claim to clarify the element, i.e., the judging portion judges. The term replaces the identification portion, which was previously recited. While the term "judging portion" might not appear *ipsissimis verbis*,

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however, Applicant submits that one of ordinary skill in the art would understand what is meant by "judging portion". Therefore, no "definition" or explanation is needed. Additionally, the judging portion is not new matter as the structure is disclosed in the specification.

With respect to Claim 34, Applicant respectfully submits that the claim does not conflict with Claim 33. Claim 33 recites that the second medical device control portion makes permission/non-permission determination regarding whether or not the first medical device is to be synchronized with the second medical device in response to the judging information outputted from the first medical device control portion. However, Claim 33 does not preclude the permission/non-permission determination from being based upon another factor. Claim 34 recites that the second medical device control portion outputs the second drive signal to drive the second medical device in response to the drive information of the first medical device outputted from the first medical device control portion **if it is judged that the second medical device is to be synchronized with the first medical device.**

Claims 36 and 37 are not in conflict with Claim 34. Claim 36 recites, in part, that the second medical device control portion determines that the second medical device is not to be synchronized with the first medical device if the drive information from the first medical device control portion is not received within a preset period of time. Claim 37 recites, in part, that the second medical device control portion stops the driving of the second medical device if the drive information from the first medical device control portion is not received within a preset period of time.

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Neither of these claims conflict with any feature of the control portion for the second device, and, in fact, is a further limitation on the control functions. For example, if the second device is already driven, the device will be stopped if the drive information from the first medical device control portion is not received within a preset period of time.

Accordingly, Applicant respectfully requests that the Examiner withdraw all of the § 112 rejections.

In the outstanding Official Action, the Examiner rejects Claims 33-35 and 38-40 under 35 U.S.C. § 103 (a) as being unpatentable over Applebaum and Whitman (both previously cited). The Examiner also rejected Claims 36 and 37 under 35 U.S.C. § 103 (a) as being unpatentable over Applebaum, Whitman and Fischer.

In the Examiner's response to Applicant's remarks, the Examiner avers that (1) he fails to understand how reprogramming multiple medical device decision making units is more advantageous than altering a single program in a host system, (2) Applebaum's microcontrollers are *capable* of making decisions, (3) a device with means for positive identification is clearly capable of being recognized when adding a new device.

(1) ADVANTAGE OVER PRIOR ART

Applicant submits that the claimed invention has advantages over the prior art.

In the claimed invention, the medical devices themselves independently control the medical device without the use or need of a central host computer. Each device sends and receives information relative to the connecting and driving status of the other device. Based upon the received information, synchronization is determined and the driving control is changed. Accordingly, there is no need for a separate and additional controller

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dedicated to manage information and the functionality of the devices. Thus, the claimed invention has the advantage that when a new medical device or equipment is added to the surgery system which was not previously connected, **only the corresponding device and the other device is needed to determine and execute the necessary control processes, such as permission and synchronization, without needing to reset or change the settings of a host computer or change a program within the host computer.**

(2) A GENERAL CAPABILITY OF IS NOT A SPECIFIC TEACHING

Just because an element, e.g., a microcontroller, is capable of doing something does not mean that the reference teaches that the element, e.g., microcontroller, actually performs the claimed feature. A microcontroller is capable of doing anything that a person programs; however, the reference must teach or suggest using the microcontroller for the claimed function. Applicant submits that the references do not teach determining or judging whether two devices can be used at the same time based upon the identification of the devices. The references do not specifically teach that the microcontrollers are used to perform the claimed manner. The claimed invention prevents certain devices from operating simultaneously based upon the type of device as well as based upon the operation of specific devices.

Accordingly, Applicant submits that Claims 33-40 are patentably distinct from Applebaum, Whitman and Fischer.

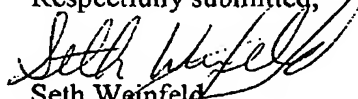
Based upon the foregoing, Applicant respectfully requests that the Examiner withdrawn the rejections of Claims 33-40 pursuant to 35 U.S.C. § 103 (a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be

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allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


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